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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Alain Charpentier

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EXAMINER

DEUBLE, MARK A

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,944	Applicant(s) CHARPENTIER, ALAIN	
	Examiner MARK A. DEUBLE	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-12 and 16 is/are rejected.
- 7) ☒ Claim(s) 5-7, 13-15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/22/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Applicant is advised that should claim 2 be found allowable, claim 3 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. Additionally, should claim 4 be found allowable, claim 12 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 3 recite a “system of feeding preforms, particularly designed to feed a machine for blow moulding receptacles *such as* bottles, *of the type* comprising,” in lines 1-3 and “and of the type comprising” in line 12. This language renders the scope of the claims indefinite because it is unclear if the claim requires a system actually having all the structure following the word comprising or merely some undefined similar structure that is “of the type”, a term which is of itself impossible to with any definite scope. Additionally, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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Claims 8-10 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: a detection means capable of detecting the presence on the rails of at least one lying perform so means for stopping the line of performs may be actuated. It appears that one of claims 8 or 16 should be amended to descend from claim 4 and the other claim should be canceled to avoid being a duplicate claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Doudement et al. (US 5,186,307).

Doudement et al. shows a feed systems for performs that includes a sorting and alignment device 9/10 whose top end is fed with jumbled performs and whose bottom end includes two parallel alignment rails 11 and 15 inclined relative to the horizontal to position them in conveyor rails 11 inclined toward a blow moulding machine. While the rails are not rotating rollers, the system may be considered to be generally of the type having two parallel alignment rollers driven in rotation about their respective axes. A discarding means is provided on a downstream portion of the rails upstream of the machine in the form of a movable wheel 18 with a plurality

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of radial blades 19 made of a flexible material that are driven around an axis 20 by a driven actuator 24. The wheel is positioned so that improperly aligned or nested performs, such as lying singly performs, are selectively swept by the blades and ejected toward a bottom side evacuation orifice formed in the hopper 16 forming part of the trough while the properly aligned and oriented preforms do not to come into contact with the blades as they sweep the space of the trough. Thus Doudement et al. shows all the structure required by claims 1-3.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kontz (US 4,223,778).

Kontz shows a feed systems for performs that includes a sorting and alignment device 100/200 whose top end is fed with jumbled performs and whose bottom end includes parallel alignment rollers 104-109 inclined relative to the horizontal to position them in conveyor rails 130-135 inclined toward a blow moulding machine. A discarding means is provided upstream of the machine in the form of a movable wheel assembly 126-129, controlled in movement by a driven actuator 124, that is positioned so that improperly aligned or nested performs, such as lying singly performs, are selectively discarded from their incorrect position. While the discarding means is not downstream of the alignment roller, the system may be considered to be generally of the type with the discarding means positioned downstream of the alignment rollers. Thus Kontz et al. shows all the structure required by claims 1-3.

7. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by PCT document number WO 02/36466 A1.

The PCT document shows a feed systems for performs that includes a sorting and alignment device 18 whose top end is fed with jumbled performs and whose bottom end includes

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parallel alignment rollers 28 inclined relative to the horizontal to position them in conveyor rails 20 inclined toward a blow moulding machine 12. A discarding means is provided upstream of the machine in the form of a movable wheel assembly 40/44, controlled in movement by a driven actuator, that is positioned so that improperly aligned or nested performs, such as lying singly performs, are selectively discarded from their incorrect position. While the discarding means is not downstream of the alignment roller, the system may be considered to be generally of the type with the discarding means positioned downstream of the alignment rollers. Thus the PCT document shows all the structure required by claims 1-3.

Claim Rejections - 35 USC § 103

8. Claims 1-4 and 11-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Kontz in view of Fink (US 3,506,840).

Kontz shows generally all the structure required by the claims, including an ejection wheel designed to eject other types of incorrectly positioned performs required by claim 11 if the wheel assembly is assigned to this part of the claimed invention. However when this is done, Kontz fails to show the selective discarding device required by the independent claims and the detection means required by claims 4 and 12. However, Fink teaches that a sensor 4 capable of supplying a detection signal representative of the presence of one lying object between the rails of a conveyor may be used to actuate a movable discarding means 7 controlled in movement by a driven actuator can advantageously be used to prevent improperly oriented articles from being fed further along the conveyor. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize such a sensor and discarding means on the conveyor rails 130-135 of Kontz in order to advantageously eject articles laying on the rails according to

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the teachings of Fink. When this is done, the resulting apparatus would have all the structure required by claims 1-4 and 11-12.

Allowable Subject Matter

9. Claims 5-7, 13-15, and 17-20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 8-10 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. DEUBLE whose telephone number is (571)272-6912. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Deuble/
Examiner
Art Unit 3651

md